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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,863	05/05/2005	Christoph Geiberger	C70518	9661
20462 7590 07/28/2008 SMITHKLINE BEECHAM CORPORATION CORPORATE INTELLECTUAL PROPERTY-US, UW2220 P. O. BOX 1539 KING OF PRUSSIA, PA 19406-0939				
			EXAMINER GUIDOTTI, LAURA COLE	
			ART UNIT 3723	PAPER NUMBER
			NOTIFICATION DATE 07/28/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

US\_cipkop@gsk.com

### Office Action Summary

**Application No.**

10/533,863

**Applicant(s)**

GEIBERGER, CHRISTOPH

**Examiner**

Laura C. Guidotti

**Art Unit**

3723

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,3,6,7,10,13,16-19 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,6,7,10,13,16-19 and 21-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claims 2-3, 6-7, 10, 13, 16-19, and 21-28 are objected to because of the following informalities:

Claim 24 Line 6, did the Applicant intend "...one or more of the sections..."?

Claim 24 Line 19, it appears that the word "is" is missing between "pad" and "a".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-3, 6-7, 10, 13, 16-19, and 21-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites the limitation "the end" in Line 10. There is insufficient antecedent basis for this limitation in the claim. This is confusing because there are many "ends" being discussed in the claim. Did the Applicant intend "...an end..."?

Claim 24 recites the limitation "the ends of the two lateral sections" in Lines 16-17. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 Line 16 is "top" end meant to be "tip" end?

Claim 24 Lines 10-17 is in general somewhat confusing. The Examiner suggests that the claim may be clearer if it instead recites "...a tip pad at an end of the middle section that is at the tip end of the head and integrally widthways enlarged relative to a

longitudinally immediately adjacent part of the middle section longitudinally nearer to the handle, the tip pad having a bristle carrying surface carrying plural tufts of bristles, and which extends across the entire width of the toothbrush head adjacent to the tip end and having a length of 20-50% of the length of the toothbrush head between its base end and tip end, and extends longitudinally beyond ends of the two lateral sections..." Or alternatively, "...an end of the middle section that is at the tip end of the head is integrally widthways enlarged relative to a longitudinally immediately adjacent part of the middle section nearer to the handle to provide a bristle-carrying tip pad adjacent to the tip end of the head having a bristle carrying surface carrying plural tufts of bristles, and which extends across the entire width of the toothbrush head adjacent to the tip end and having a length of 20-50% of the length of the toothbrush head between its base end and tip end, and extends longitudinally beyond ends of the two lateral sections..."

Claim 24 Lines 34-36 is unclear. It appears that there may be language missing. In particular Line 35 is especially confusing.

***Allowable Subject Matter***

3. Claims 2-3, 6-7, 10, 13, 16-19, and 21-28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

The following is a statement of reasons for the indication of allowable subject matter:

Naslund (US D440,404) discloses many elements similar to the Applicant's invention including the tip pad and three widthways adjacent, longitudinally extending

sections from which bristles extend. Naslund, however, discloses numerous intermediate bristle-carrying pads between link regions, rather than a single intermediate bristle-carrying pad and also does not disclose that the second link region has immediately adjacent to it a resiliently flexible neck connecting the middle section to the grip handle.

Dawson et al. (US 5,802,656) does not have an air gap between widthways adjacent sections.

### ***Response to Arguments***

4. Applicant's arguments, filed 08 April 2008, with respect to the rejection(s) of claim(s) 2-3, 6-7, 10, 13, 16-19, and 21-28 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 USC 112 second paragraph.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura C Guidotti/  
Primary Examiner, Art Unit 3723